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PP v. LING LEH HOE

COURT OF APPEAL, KUCHING
MOHD ZAWAWI SALLEH JCA
IDRUS HARUN JCA
ABDUL RAHMAN SEBLI JCA
B [CRIMINAL APPEAL NO: Q-05(S)-157-06-2014]
5 MAY 2015

CRIMINAL PROCEDURE: *Appeal – Appeal against sentence – Appeal by prosecution – Accused person pleaded guilty to alternative charge under Dangerous*
C *Drugs Act 1952 – Possession of drugs – High Court sentenced accused person to 80 months' imprisonment for alternative charge – Whether sentence adequate – Whether reflected public interest – Whether guilty plea automatically warranted lesser punishment – Dangerous Drugs Act 1952, ss. 6, 12(2), 12(3) & 39A(2)*

D ***CRIMINAL PROCEDURE:*** *Sentencing – Plea of guilty – Accused person pleaded guilty to alternative charge under Dangerous Drugs Act 1952 – Possession of drugs – High Court sentenced accused person to 80 months imprisonment for alternative charge – Whether plea of guilt automatically entitled accused person to lesser punishment – Whether sentence adequate and reflected public interest*

E At the High Court, the respondent had pleaded guilty to two charges under the Dangerous Drugs Act 1952 ('DDA'), specifically (i) s. 6 for possessing 390.76 grams of cannabis ('the alternative charge'); and (ii) s. 12(2) for possessing 0.26 grams of nimetazepam ('the second charge'). Having convicted the respondent for the offences, the court sentenced the latter to (i) 80 months' imprisonment and ten strokes of whipping for the alternative
F charge; and (ii) 36 months' imprisonment for the second charge. The sentence of imprisonment was ordered to run concurrently. Dissatisfied with the High Court's decision, the appellant ('the prosecution') appealed against the sentence in respect of the alternative charge on the grounds that it was manifestly inadequate and a heavier custodial sentence ought to be imposed
G against the respondent to reflect public interest. The respondent argued that the sentence meted out was sufficient and a guilty plea ought to be considered in favour of the respondent.

Held (allowing appeal; increasing term of imprisonment to ten years)
Per Mohd Zawawi Salleh JCA delivering the judgment of the court:
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(1) The High Court judge ('the HCJ') placed too much emphasis on the fact that the respondent had pleaded guilty. While it is generally accepted that an accused person should be given credit for pleading guilty, there can be no automatic rule that a guilty plea on its own entitles an accused
I to a lesser punishment. However, neither the guilty plea of the respondent nor the fact that the respondent was a first-time offender

could be considered too favourable for the respondent. The sentence imposed by the HCJ was not in conformity with the sentencing trend for offences under s. 39A(2) of the DDA. (paras 16 & 24)

(2) The HCJ had failed to consider the fact that the life sentence provided under s. 39A(2) of the DDA had been amended by the Criminal Justice (Amendment) Act 2007 which was from 20 years to 30 years. Parliament clearly expects the courts to impose sentences which are likely to deter people from engaging in a commercial way with drugs. The seriousness of the offence, its prevalence and the quantity involved should be taken into consideration by the courts in imposing the appropriate sentence for drugs offenders. (para 17)

(3) Offences relating to possession of dangerous drugs are a major national problem. Public interest called for a deterrent sentence. Under s. 39A(1) of the DDA, where the weight of the cannabis is more than 20 grams but less than 50 grams, the sentence imposed shall be between two and five years, with whipping between three and nine strokes. Under s. 39A(2) of the DDA, where the weight of the cannabis is 50 grams or more, the sentence shall be imprisonment for 30 years or a term which shall not be less than five years with whipping of not less than ten strokes. The quantity of drugs involved in this appeal was eight times above the statutory trigger prescribed by s. 39A of the DDA. Therefore, a heavier sentence ought to be imposed on the respondent (paras 20, 21 & 24)

Bahasa Malaysia *Translation Of Headnotes*

Di Mahkamah Tinggi, responden telah mengaku bersalah atas dua pertuduhan di bawah Akta Dadah Berbahaya 1952 ('ADB'), khususnya (i) s. 6 kerana memiliki 390.76 gram kanabis ('pertuduhan alternatif'); dan (ii) s. 12(2) kerana memiliki 0.26 gram nimetazepam ('pertuduhan kedua'). Selepas mensabitkan responden bagi pertuduhan-pertuduhan tersebut, mahkamah menjatuhkan hukuman ke atasnya, iaitu (i) penjara 80 bulan dan sepuluh kali sebatan bagi pertuduhan alternatif; dan (ii) penjara 36 bulan bagi pertuduhan kedua. Pertuduhan diperintahkan berjalan serentak. Tidak berpuas hati dengan keputusan Mahkamah Tinggi, perayu ('pihak pendakwaan') merayu terhadap hukuman bagi pertuduhan alternatif atas alasan bahawa ia jelas tidak mencukupi dan hukuman penjara yang lebih berat sepatutnya dijatuhkan untuk mencerminkan kepentingan awam. Responden mendalihkan bahawa hukuman yang dijatuhkan adalah mencukupi dan satu pengakuan bersalah harus dipertimbangkan berpihak kepada responden.

Diputuskan (membenarkan rayuan; meningkatkan tempoh penjara kepada sepuluh tahun)

Oleh Mohd Zawawi Salleh HMR menyampaikan penghakiman mahkamah:

(1) Hakim Mahkamah Tinggi ('HMT') terlalu memberi penekanan kepada fakta bahawa responden telah mengaku bersalah. Walaupun secara amnya diterima bahawa seorang tertuduh sepatutnya diberikan kebolehpercayaan kerana mengaku bersalah, tiada peraturan automatik bahawa pengakuan bersalah dengan sendirinya memberikan hak hukuman yang kurang kepada tertuduh. Walau bagaimanapun, pengakuan bersalah mahupun fakta bahawa responden adalah pesalah kali pertama tidak berpihak kepada responden. Hukuman yang dijatuhkan oleh HMT tidak selaras dengan trend hukuman bagi kesalahan-kesalahan di bawah s. 39A(2) ADB.

(2) Hakim Mahkamah Tinggi gagal mempertimbangkan fakta bahawa hukuman seumur hidup yang diperuntukkan di bawah s. 39A(2) ADB telah dipinda oleh Akta Keadilan Jenayah (Pindaan) 2007 iaitu dari 20 tahun ke 30 tahun. Parlimen jelas mengharapkan agar mahkamah menjatuhkan hukuman-hukuman yang mungkin boleh menghalang orang daripada melibatkan diri secara komersial dengan dadah. Keseriusan kesalahan, kelaziman dan kuantiti yang terlibat sepatutnya diambil kira oleh mahkamah-mahkamah dalam menjatuhkan hukuman yang sepatutnya kepada pesalah-pesalah dadah.

(3) Kesalahan-kesalahan berkenaan milikan dadah berbahaya adalah masalah utama negara. Kepentingan awam mewajarkan hukuman bersifat menghalang. Di bawah s. 39A(1) ADB, jika berat kanabis melebihi 20 gram tetapi kurang daripada 50 gram, hukuman yang dijatuhkan adalah antara dua dan lima tahun, dengan hukuman rotan antara tiga dan sembilan kali sebatan. Di bawah s. 39A(2) ADB, jika berat kanabis adalah 50 gram atau lebih, hukuman yang dijatuhkan adalah penjara 30 tahun atau untuk tempoh yang tidak kurang dari lima tahun dengan rotan tidak kurang daripada sepuluh kali sebatan. Kuantiti dadah dalam rayuan ini adalah lapan kali melebihi pencetus berkanun yang dinyatakan di bawah s. 39A ADB. Oleh itu, hukuman yang lebih berat sepatutnya dikenakan terhadap responden.

Case(s) referred to:

Bachik Abdul Rahman v. PP [2004] 2 CLJ 572 CA ***(refd)***
Dookee v. Director of Public Prosecutions [2010] SCJ 71 ***(refd)***
Haryadi Dadeh v. PP [2000] 3 CLJ 553 FC ***(refd)***
Loo Weng Fatt v. PP [2001] 3 SLR 313 ***(refd)***
Mohd Abdullah Ang Swee Kang v. PP [1987] 2 CLJ 405; [1987] CLJ (Rep) 209 SC ***(refd)***
PP lwn. Abdul Halim Ishak & Satu Lagi [2013] 9 CLJ 559 CA ***(refd)***
PP v. Loo Choon Fat [1976] 1 LNS 102 HC ***(refd)***

PP v. Mohd Radzi Abu Bakar [2006] 1 CLJ 457 FC ***(refd)***
PP v. Ravindran & Ors [1992] 1 LNS 47 HC ***(refd)***
PP v. UI [2008] 4 SLR (R) 500 ***(refd)***
R v. Ball [1951] 35 Cr App R 164 ***(refd)***
Subramaniam Arumugam v. PP [2000] 2 CLJ 1 FC ***(refd)***
Tia Ah Leng v. PP [2004] 4 CLJ 77 CA ***(refd)***
Zaidon Shariff v. PP [1996] 4 CLJ 441 HC ***(refd)***

Legislation referred to:
Dangerous Drugs Act 1952, ss. 6, 12(2), (3), 39A(1), (2), 39B(1)(a), (2)

For the appellant - Nahra Dollah; DPP
For the respondent - Jacquelyn Hii Shin Law; M/s Daren Ling & Advocs

[Appeal from High Court, Sibu; Criminal Trial No: SBW-45-5-6-2013]

Reported by Najib Tamby

JUDGMENT

Mohd Zawawi Salleh JCA:

Introduction

[1] This is an appeal against sentence by the prosecution. The respondent, Ling Leh Hoe, was charged with two offences under the Dangerous Drugs Act 1952 ("DDA 1952").

[2] For ease of reference, the charges are reproduced below:

> **1st charge**
>
> Bahawa kamu pada 05.03.2013 jam lebih kurang 2.15 petang di bilik nombor 1036, Hotel Kingwood, No. 12, Lorong Lanang 4, Sibu, dalam daerah Sibu dalam negeri Sarawak, telah didapati mengedar dadah berbahaya iaitu cannabis seberat 390.76 gram dan dengan itu kamu telah melakukan suatu kesalahan di bawah Seksyen 39B (1)(a) Akta Dadah Berbahaya 1952 yang boleh dihukum di bawah Seksyen 39B (2) Akta yang sama.
>
> **2nd charge**
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> Bahawa kamu pada 05.03.2013 jam lebih kurang 2.15 petang di bilik nombor 1036, Hotel Kingwood, No. 12, Lorong Lanang 4, Sibu, dalam daerah Sibu dalam negeri Sarawak, telah ada dalam MILIKAN kamu dadah berbahaya iaitu Nimetazepam seberat 0.26 gram dan dengan itu kamu telah melakukan suatu kesalahan di bawah Seksyen 12(2) Akta Dadah Berbahaya 1952 yang boleh dihukum di bawah Seksyen 12(3) Akta yang sama.

[3] On 26 May 2014, the learned Deputy Public Prosecutor ("DPP") informed the court that the prosecution had accepted the respondent's representation to prefer an alternative charge of possession for the first offence. The alternative charge is as follows:

That you on the 5th March 2013 at about 2.15pm, at Room No. 1036, Kingwood Hotel, No. 12, Lorong Lanang 4, Sibu, in the district to Sibu, in the state of Sarawak did have in your possession dangerous drugs, to wit a total of 390.76 grammes of Cannabis which is listed in the First Schedule of the Dangerous Drugs Act 1952, without any authorization under the Dangerous Drugs Act 1952 or the regulation made thereunder and that you thereby committed an offence under Section 6 of the Dangerous Drugs Act 1952 and punishable under Section 39A(2) of the same Act.

[4] The respondent pleaded guilty to both the alternative charge and the second charge. The court accepted his plea of guilty and convicted him. After hearing submissions from both learned counsel for the respondent and learned DPP, the court imposed the following sentence:

(i) The alternative charge: 80 months imprisonment and ten strokes of whipping; and

(ii) The second charge: 36 months imprisonment.

[5] The sentence of imprisonment was ordered to run concurrently.

[6] Being dissatisfied with the High Court's decision, the prosecution filed an appeal against the sentence in respect of the alternative charge.

[7] We heard the appeal on 9 February 2015. At the conclusion of the argument, we found there was merit in the appeal and accordingly we allowed the appeal.

[8] We now give the detailed grounds of our decision.

The Facts

[9] The learned DPP tendered the statement of facts as follows:

(i) On the 5th March 2013 at about 2.15 pm, after the arrest of two persons by the name of Tang Soon Seng and Philip Lau Fui ing in front of Kingwood Hotel, Sibu and acting on the information received, a police party from the Narcotic Investigation Department Sibu, comprising of D/Kpl Mabong Kom, D/Kpl Siena Bakir, D/Kpl Fareda, D/Kpl Rostinah Suhardi, D/Kpl Bohasan, D/Kpl Jusnalee, D/Kpl Sophian, D/Kpl Melintang, Kpl Husaini, Kpl Jerawi and Mohd Eysham Yaacub headed by Sub Insp Zulkarnain bin Abu Hassan went to the Room No. 1036 of Kingwood Hotel, Sibu.

(ii) When the police party arrived outside this particular room, the door was locked from inside. D/Kpl Bohasan then knocked at the door several times and the Accused opened the door. D/Kpl Bohasan introduced himself as a police officer. Upon seeing D/Kpl Bohasan, the Accused looked shock as he already knew that D/Kpl Bohasan was a police officer prior to the date of 5th March 2013. At that particular time, apart from the Accused, there was no other person inside the said room.

(iii) After introducing himself as police officer, D/Kpl Bohasan asked the Accused whether he had kept any contraband item inside the said room the Accused answered in negative. After that D/Kpl Bohasan and other members of the police team entered the said room to conduct an inspection of the same.

(iv) Upon inspection of the said room, D/Kpl Jusnalee found on the table inside the said room, 4 red strips of tablet containing 10 tablets in each strip, suspected to be drugs. D/Kpl Jusnalee then handed over the said 4 strips of table to Sub Ins Zulkarnain bin Abu Hassan for custody.

(v) Thereafter, upon inspection of the cabinet inside the said room, D/Kpl Bohasan found 1 brown bag inside the said cabinet. Upon inspection of the inside of this brown bag, D/Kpl Bohasan found one plastic bag with the following words printed on it, "LAUNDRY-VALET, KINGWOOD HOTEL (SIBU) SDN BHD NO. 12, LORONG LANANG 4, 96000 SIBU SARAWAK" and inside this plastic bag, D/Kpl Bohasan found one black plastic bag.

Upon inspection of this black plastic bag, D/Kpl Bohasan found six (6) transparent plastic packets containing compressed lump of dried plant material, four (4) white plastic packets containing compressed lump of dried plant material, one (1) black plastic packets containing compressed lump of dried plant material, one (1) red plastic packets containing compressed lump of dried plant material and one (1) blue plastic packets containing compressed lump of dried plant material. All these compressed lump of dried leaves are suspected to be drugs. After that, D/Kpl Bohasan handed over all these items to Sub Insp Zulkarnain bin Abu Hassan for custody.

(vi) After that, the Accused was arrested and brought to the Narcotic Investigation Department, Sibu at Sungai Merah Police Station. All these items seized from the said hotel room were brought back by Sub Insp Zulkarnain bin Abu Hassan to his own office at Sungai Merah Police Station. On the same day at his office, Sub Insp Zulkarnain bin Abu Hassan made markings on all the items seized with his signature and date as follows. He marked the brown bag with the marking 'BBB', the LAUNDRY plastic bag with the 'BB' and the black plastic bag with the marking 'B'. As regards the four (4) white plastic packets; he marked them as 'B1', 'B2', 'B3' and 'B7' respectively and the one (1) black plastic packet was marked as 'B4'. The one (1) red plastic packet was marked as 'B6'. The six (6) transparent plastic packets were marked as 'B8', 'B9', "B10', 'B11', 'B12' and 'B13' respectively. The four (4) strips of table were also marked as 'A1', 'A2', 'A3', and 'A4' respectively. All these items were later handed over to the investigating officer, Insp. Augustine Gaja ak Lakong.

(vii) On the 8th March 2013, Insp Augustine Gaja ak Lakong sent all the said items, suspected to be drugs, to the Chemistry Department Malaysia, Sibu for analysis. Upon analysis by the government

A Chemist and *vide* the Laboratory Report No. (SB) FOR 283/13-0, the dried plants material inside the plastic packets marked B1, B3, B3, B4, B5, B6, B7, B8, B9, B10, B11, B12 and B13 respectively found to be Cannabis within the meaning of Section 2 of the Dangerous Drugs Act 1952, having the nett weight of 390.76 gram. The Chemist Report also stated that the 40 tablets from the strips marked A2, A2, B A3 and A4 respectively contained 0.26 gram Nimetazepam which listed in First Schedule of the Dangerous Drugs Act 1952.

[10] The respondent admitted to the above statement of facts without qualification.

C **The Appeal**

[11] Before us, the learned DPP submitted that the sentence imposed by the High Court was manifestly inadequate. She cited the cases of *Public Prosecutor v. Loo Choon Fatt* [1976] 1 LNS 102; [1976] 2 MLJ 256, *Mohd Abdullah Ang Swee Kang v. Public Prosecutor* [1987] 2 CLJ 405; [1987] CLJ (Rep) 209, *Tia* D *Ah Leng v. PP* [2004] 4 CLJ 77 in support of her argument that a heavier custodial sentence ought to be imposed against the respondent to reflect public interest.

[12] In reply, the learned counsel for the respondent submitted that the prosecution should not have appealed against the sentence. She contended E that the sentence meted out against the respondent was sufficient, taking into account the totality of the facts and circumstances of this case. Further, a guilty plea ought to be considered in favour of the respondent. The cases of *Public Prosecutor v. Ravindran & Ors* [1992] 1 LNS 47; [1993] 1 MLJ 45 and *Zaidon Shariff v. Public Prosecutor* [1996] 4 CLJ 441 were cited in support of F her contention.

Our Findings

[13] At the outset, we must say that the contention of the learned counsel for the respondent that the prosecution should not have appealed against the G sentence is misconceived. The prosecution is entitled to file an appeal against sentence:

(a) Where the sentence reveals manifest inadequacy or inconsistency in sentencing as to constitute an error in principle;

H (b) Where it is necessary for the Court of Appeal to lay down principles for the governance and guidance of the lower courts;

(c) To enable the courts to establish and maintain adequate standards of punishment for crime;

(d) To enable idiosyncratic views of the individual judge as to particular I crimes or types of crimes to be corrected;

(e) To correct a sentence which is so disproportionate to the seriousness of the crime as to shock the public conscience; and

(f) To ensure, as far as the subject matter permits, that there will be uniformity in sentencing.

[14] The appellate court can and will interfere in the sentence imposed by the lower court if it is satisfied that any of the following four grounds are made out:

(a) The sentencing judge had made a wrong decision as to the proper factual basis for the sentence;

(b) There had been an error on the part of the trial judge in appreciating the material facts placed before him;

(c) The sentence was wrong in principle; or

(d) The sentence imposed was manifestly excessive or inadequate.

(See *R v. Ball* [1951] 35 Cr App. R 164; *Loo Weng Fatt v. Public Prosecutor* [2001] 3 SLR 313 at para [65]; *Public Prosecutor v. UI* [2008] 4 SLR (R) 500).

[15] In similar vein, the Court of Criminal Appeal in *Dookes v. Director of Public Prosecutions* [2010] SCJ 71 said at para 177:

> ... sentencing is not a science of mathematical application of any set formula. It is a normative science rather than a physical science which takes into account the circumstances of the offender as well as the offence and the impact of the offence on the community. A sentence may look to be lenient because it is tailored to fit the offender, the offence and the offended but, in our system of justice, the trial court is the only constitutional institution which is empowered and sovereign in determining which sentence to impose on an offender on the facts of the particular case. *An appellate court would scarce intervene unless the sentence is wrong in principle or manifestly harsh and excessive or unduly lenient. However, even if there is nothing wrong with the principle, the sentence may be increased by the appellate court if it is unduly lenient. The principle of proportionality pervades through the whole system of justice, in procedure, substance and sanctions.* (emphasis added)

[16] In this instant appeal, it would appear that the learned judge placed too much emphasis on the fact that the respondent had pleaded guilty. While it is generally accepted that an accused person should be given credit for pleading guilty, there can be no automatic rule that a guilty plea on its own entitles an accused to a lesser punishment. (See *Bachik Abdul Rahman v. PP* [2004] 2 CLJ 572). In *Tia Ah Leng v. PP* [2004] 4 CLJ 77; [2004] 4 MLJ 249, Mokhtar Sidin JCA at pp. 83-84 (CLJ); p. 254 (MLJ) said that:

> [9] It is true that the general rule is, when imposing a sentence, the court should take into consideration the fact that an accused person who has pleaded guilty be given certain credit and discount, but we are of the view

A that there are exceptions to this rule. In our opinion, one of these are the offences under the Dangerous Drugs Act 1952. The Government and the legislature have taken very serious views in the abuse of usage of dangerous drugs. Drug addictions are rampant and the Government as well as the legislature have tried to curb these addictions especially amongst youths but met with little success. Death sentences and heavy
B penalties have been introduced but we find drug addicts everywhere. The addiction to drugs have led to other offences such as thefts, burglary and snatch thefts. Some of these offences lead to serious consequences. We have read in the newspapers that some drug addicts have gone to the extent of hurting their own families such as their mothers, sisters and grandmothers in order to get some money to purchase the drugs to
C support their addictions. Recently, a woman died when a snatcher snatched her handbag and she was dragged together with the handbag some distance away and as a result of that she died.

[10] In our view, the source of all these evils are the drug traffickers and the drug peddlers. They are the ones who have been trafficking, selling
D and peddling the drugs to those drug addicts. It is public knowledge that the return in this type of business is very lucrative.

[11] The seriousness of the offences on drugs have been made known since the seventies. Eminent judges have expressed this in so many cases …

E **[17]** With respect, the learned judge had failed to consider the fact that the life sentence provided under s. 39A(2) of the DDA 1952 had been amended by the Criminal Justice (Amendment) Act 2007 (Act A1302) which was effective from 7 September 2007, that is from 20 years to 30 years. It is the duty of the court to impose penalties which give effect to the legislative
F policy reflected by the amendment. Our courts have consistently stressed the need to recognise the severe penalties which Parliament has specified for offences involving cannabis. Our courts have also emphasised that Parliament clearly expects the courts to impose sentences which are likely to deter people from engaging in a commercial way with drugs. The
G seriousness of the offence, its prevalence and the quantity involved should be taken into consideration by the courts in imposing the appropriate sentence for drug offenders. (See *PP lwn. Abdul Halim Ishak & Satu Lagi* [2013] 9 CLJ 559).

[18] It is the duty of this court to intervene at the instance of the learned
H DPP when it appears that a failure on the part of the sentencing judge to implement the policy of the legislature.

[19] It must be emphasised that our system of criminal justice proceeds on the premise that sentences were to have a deterrent effect, and Parliament enacts punishment for crimes on that basis. Recognising that, the courts must
I be prepared to perform their duty. If the sentences imposed prove to be ineffectual, then it may be appropriate to increase them. The sting of the sentence is in its custodial effect.

[20] Further, offences relating to possession of dangerous drugs are a major national problem. Public interest called for a deterrent sentence in such cases. This view finds support in the DDA 1952 itself which prescribes different penalties depending on the weight of drugs involved. Under s. 39A(1) of the DDA 1952, it is prescribed that where the cannabis is more than 20g but less than 50g, the sentence imposed shall be between two years and five years, with whipping between three strokes and nine strokes. Under s. 39A(2) of the DDA 1952, where the weight of the cannabis is 50g or more the sentence shall be imprisonment for 30 years or a term which shall not be less than five years with whipping of not less than ten strokes.

[21] In this instant appeal, the quantity of drugs involved is 390.76g of cannabis. As pointed out by the learned DPP, the quantity of cannabis is almost eight times above the statutory trigger prescribed by s. 39A of the DDA 1952. There is no doubt in our minds this is a very serious case as the amount of drug involved is very substantial.

[22] The learned DPP, in her written submission, also addressed on the trend of sentencing in similar cases. She argued that based on the statistics, the courts are always consistent in imposing a deterrent sentence in drugs possession cases. She forcefully contended that on the facts of this case, the sentence of 80 months (six years eight months) imprisonment and ten strokes of whipping imposed against the respondent was manifestly inadequate.

[23] We find ourselves in agreement with the learned DPP. The decisions of the Federal Court in cases of *PP v. Mohd Radzi Abu Bakar* [2006] 1 CLJ 457, *Haryadi Dadeh v. PP* [2000] 3 CLJ 553; [2000] 4 MLJ 71, *Subramaniam Arumugam v. PP* [2000] 2 CLJ 1; [2000] 2 MLJ 193 clearly show that deterrent sentences should be imposed for the offences of drug possession. In *Mohd Radzi Abu Bakar*, the accused was sentenced to 18 years imprisonment and ten strokes of whipping for possession of 342.1g of cannabis. In *Haryadi Dadeh*, the accused was sentenced to ten years imprisonment and ten strokes of whipping for possession of 251.60g of cannabis. In *Subramaniam Arumugam*, the accused was sentenced to 12 years imprisonment and ten strokes of whipping for possession of 236.07g of cannabis.

[24] Based on the decisions in the above cases, it is clear that a heavier sentence ought to be imposed on the respondent. We find that neither the guilty plea of the respondent nor the fact that the respondent is a first offender can be considered too favourable for the respondent. Clearly, the sentence imposed by the High Court was not in conformity with the sentencing trend for offences under s. 39A(2) of the Act.

[25] As has been said repeatedly and correctly, abuse of dangerous drugs is a scourge to our society leading to many spinoff incidences of criminal behaviour. It is a purveyor of death. Therefore, one could hardly deny that drugs offenders are a threat to our society from which we must be protected, sometimes by means of lengthy custodial sentence.

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Conclusion

[26] In our judgment, this case warrants appellate intervention. Accordingly, we allowed the prosecution's appeal and increased the term of imprisonment to ten years. The imposition of ten strokes of whipping is retained.

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